

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

September 18, 2007

7:00 p.m. Town Hall

Present: Barbara Schenkel, Chair
James Huebener
Beth Richardson

Paul Godfrey
Jack Kennealy
Peter Hatem

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel called the meeting to order and called for comments or corrections of the minutes of August 21, 2007. Mr. Huebener made a motion to accept the minutes and Mr. Kennealy seconded. The minutes were approved without amendment 5-0.

CONSENT AGENDA

Inn by the Sea Site Plan Amendment - The Olympia Companies would like to request a de minimus change to re-orient the mechanical building and replace stone with shingles on the entrance pillars for the Inn by the Sea located at 40 Bowery Beach Rd (U17-40), Sec. 19-9, Site Plan Amendment.

Since there was no discussion by the Board, Mrs. Richardson made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Olympia Companies for a de minimus change to the previously approved site plan for the Inn by the Sea, located at 40 Bowery Beach Rd, to rotate the mechanical building and change the stone pillars to a shingle pillar be approved as a Consent Agenda item.

Mr. Godfrey seconded the motion and it was approved, 5-0.

OLD BUSINESS

Jonesy's Convenience Store Site Plan - Gregg Jones would like to request Site Plan Review to convert the gas/service station located at 298 Ocean House Rd (U22-78) to a Convenience Store/gas station, Sec. 19-9, Site Plan Public Hearing.

Mr. Ron St. Pierre represented Gregg Jones. He called the Board's attention to the changes that have been made to the plans since the last meeting with the

Planning Board. He said the sidewalk has been changed to 5 ft wide, the plantings in front of the building have been squared off. He noted that the dumpster has been relocated, and a stockade fence will provide screening for it. The benches at the sidewalk have been deleted.

Mr. St. Pierre also addressed the points outlined in the memo from Oest Associates. The catch basin will be located at the lowest point and details will be added to the plans. He also noted that the sight distances are 350 ft. or more in each direction. The façade of the building has been change to better fit into the village. It is less sterile than the previous plan.

Mrs. Schenkel opened the public hearing.

Since no one came forth, Mrs. Schenkel closed the public hearing.

In the discussion from the Board, Mr. Huebener asked if “Jonesy’s “could be on the top of the building façade, instead of “On the Run”. Mr. St. Pierre agreed to that change, but noted that “On the Run” must be included in the signage on the front of the store.

The Planning Board commended the applicant on the changes to the exterior of the building.

Mr. Godfrey made the following motion:

Findings of Fact

1. Gregg Jones is requesting Site Plan Review to convert the existing gas/service station located at 298 Ocean House Rd to a gas station/convenience store, which requires review under Sec. 19-9, Site Plan Regulations and Sec. 19-6-4(D)(3), Town Center District Design Requirements.
2. The applicant has requested several changes to the submitted plans to facilitate better interior circulation.
3. The project’s location in the Town Center increases the importance of pedestrian facilities, landscaping, and building design.
4. The application substantially complies with Sec. 19-9, Site Plan Regulations and Sec. 19-6-4(D)(3), Town Center District Design Requirements.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Gregg Jones for Site Plan

Review to convert the existing gas/service station located at 298 Ocean House Rd to a gas station/convenience store be deemed approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's letter dated 9/13/07;
2. That the central island be reduced in width on the applicant's property from 11'10" to 5' from the back of the sidewalk;
3. That the benches shown on the plan be eliminated;
4. That the dumpster location be moved 25' to the south;
5. That the planting islands in front of the store be changed to a rectangular shape;
6. That a 6' wide sidewalk be installed extending from the southerly curb cut to the south and separated from Route 77 by a minimum 5' wide esplanade;
7. That the lilacs proposed for the northerly side of the property be moved to the area of the westerly property line adjacent to the parking area; and
8. That the Code Officer review the sign plans for compliance and that the plans be revised to reflect the placement of the name "Jonesy's" above the main entrance.
9. That there be no alteration of the site nor issuance of a building permit until the plans have been revised to reflect the above conditions and approved by the Town Planner.

Mrs. Richardson seconded the motion and a brief discussion ensued. Condition 6 drew discussion about whether to require a 6' wide sidewalk or to leave it at 5' as proposed by the applicant. It was agreed to require the sidewalk to be 6' wide in order to conform to the Town Center standards.

Mrs. Richardson requested an additional condition be added to address the signage. It was agreed to add a new condition. That condition is now number 8 above.

The Board approved the motion 5-0.

Cardinal Lane Private Road Approval - Suzanne Gabriel is requesting Private Road Approval for Cardinal Lane, located off Cross Hill Rd, which

has previously received a Private Accessway Permit, in order to create frontage for a new lot, Sec. 16-3-2, Subdivision Ordinance Road Design and Construction Standards Public Hearing.

John Mitchell, of Mitchell and Associates, presented the project. He noted that this will be an extension of an existing Private Accessway. The utilities will be extended to the end of the road. There will be two catch basins added at the intersection of Cardinal Lane and Cross Hill Road. The applicant is requesting a waiver to have drainage swales on both sides of the road, instead of enclosed drainage, with the condition that should this road ever be considered for acceptance by the Town, it will be brought up to Town standards. The road also has an intersection slope of 4%, rather than the 3% currently required.

Mrs. Schenkel opened the public hearing.

Since no comments were offered, the public hearing was closed.

Mr. Godfrey wants an additional finding of fact to address the slope difference of 4%, rather than 3%.

Mrs. Richardson feels that an open swale is asking for trouble with invasive plants, and deteriorating roadways.

Ms. O'Meara gave a brief history of private road standards. She also said that in this case, the Public Works Director and the Town Engineer do not think that this is a problem.

Mrs. Schenkel noted that from the site walk it was felt that in light of the Town Engineer and Bob Malley, (Public Works Director) it was okay to allow open swales in this instance.

Mrs. Richardson wondered out loud why we have private road standards if we don't adhere to them.

Mrs. Schenkel noted that in certain instances the standards have been waived because of factors on an individual project. Sometimes it just makes more sense to grant a waiver. In this case, the expense seems excessive for one lot.

Mr. Godfrey also added that in this case Mother Nature's grading of the topography works to make it fine the way it is. He also raised the point that if the road is ever accepted at some point in the future it will be updated to standards. Do we need to add that to the findings?

Mr. Godfrey made the following motion:

Findings of Fact

1. Suzanne Gabriel is requesting Private Road approval for Cardinal Lane, a previously approved private accessway located off Cross Hill Rd, to create frontage for a new lot 3, which requires review for compliance with Sec. 16-3-2, Road Design and Construction Standards.
2. The Town Engineer has recommended design improvements to the private road.
3. That a waiver be granted to allow a 4% slope instead of the standard 3%.
4. The application substantially complies with the Subdivision Road standards, Sec. 16-2-3 of the Subdivision Ordinance.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Suzanne Gabriel for Private Road approval for Cardinal Lane, a previously approved private accessway located off Cross Hill Rd, to create frontage for a new lot 3, be approved, subject to the following conditions:

1. That the plans be revised per the Town Engineer's letter dated 9/10/07; and
2. That there be no recording of plans, alteration of the site or issuance of a building permit until the plans have been revised per the above conditions and a performance guarantee for the road improvements has been posted in a form and amount acceptable to the Town Manager and Town Attorney.

Mr. Kennealy asked if a condition needed to be added regarding the open swales.

It was decided that that was covered in the Town Engineer's letter and the notes on the plans.

Mr. Kennealy seconded the motion and it passed, 5-0, with Mr. Hatem abstaining.

Maskewitz/McMullin Resource Protection Permit - Dianne Maskewitz and Scott McMullin are requesting that their application for a Resource Protection Permit for 4,191 sq. ft. of previously filled wetland and pond for landscaping located at 221 Fickett Street (R4-51-5) be tabled to the regular October 16, 2007 meeting, at which time a public hearing will be held, Sec. 19-8-3, Resource Protection Permit

There was no discussion and Mr. Huebener made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Dianne Maskewitz and Scott McMullin for an after the fact Resource Protection Permit to fill 4,191 sq. ft. of wetland and pond for landscaping, located at 221 Fickett Street, be tabled to the regular October 16, 2007 meeting, at which time a public hearing will be held.

Mr. Kennealy seconded the motion and it was approved, 6-0.

NEW BUSINESS

Old Sea Point Rd Subdivision Amendment - Sally Crockett, owner of the lot located at 4 Old Sea Point Rd (R2-18), is requesting an amendment to the previously approved Old Sea Point Subdivision to reduce the road improvements to Old Sea Point Rd, located off of Old Ocean House Rd, Sec. 16-2-5, Subdivision Amendments.

Neil Williams, Chief of Police, made a statement that he has a personal interest in this project, and has not attended any staff reviews of this proposal.

Bob Metcalf of Mitchell and Associates introduced the project. Old Sea Point Road was an amended subdivision approved by the Board in 2003 to create two additional lots. The condition of that approval was that when the first lot was to receive a building permit, the road was to be brought up to an 18 ft wide standard. We are here to request a waiver of that provision.

Mr. Metcalf outlined the improvements they are planning to make in response to a meeting with Chief McGouldrick. The major improvements are on Old Ocean House and Old Sea Point Road. They will expand the radius points at the intersection, extend the culverts in both directions, move the existing mailboxes and remove and prune some vegetation to increase sight distances. The turnaround which was approved in the last approval was never constructed and the applicant proposes to construct it as part of this project.

Mr. Metcalf then showed pictures of what the roadway looks like now. He also showed that location of the proposed turnout for cars to be able to pass each other.

Mrs. Schenkel questioned the rationale for not wanting the road to be wider than 12 ft. When it was approved, it was to be 18 ft., and now the standards call for 22 ft.

Mr. Metcalf replied that it would drastically change the character of the neighborhood, and there are only four homes in here.

Mr. Huebener asked Ms. O'Meara if we have ever approved a road this narrow. She replied that yes, you have done so before.

Mrs. Schenkel wants to see this before she makes a decision. This was approved as an 18 ft road, and now they are asking for a reduction which is even further from the current code.

Mr. Kennealy said he has the same concerns. He cited the Town Engineer's report, and the fact that the 2003 approval was for an 18 ft. roadway. He asked how this has happened that this is still a 12 ft. road.

Mr. Metcalf said that the road was already in existence in 2003 when the amended plan was approved.

Ms. O'Meara added that there has been no activity since the 2003 approval to trigger the requirement to bring the road up to 18 ft.

Mr. Hatem questioned the possibility of further development.

Ms. O'Meara responded that there is the potential for further development.

Mr. Godfrey would like to go out and take a further look at this. He also suggested that maybe the current applicant could bring the road up to the required width for just half the length, rather than bearing the expense of the entire length.

Mr. Hatem is not prepared to approve it tonight. Proposed tabling it to next month's meeting and having a site walk and maybe even a public hearing.

Mr. Metcalf addressed the concern about the wetlands which would be disturbed by the extension of the utilities to the lot in question. He said they would temporarily disturb about 1500 sq. ft. of wetlands and then restore it when the project was finished.

A site walk was scheduled for 7:00 am. Friday September 28.

Mr. Hatem made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Ms. Sally Crockett for an amendment to the previously approved Old Sea Point Rd Subdivision to reduce the required width of the travel surface of Old Sea Point Rd from 18' to the existing width of 12' with pull-off area be: tabled to the October 16, 2007 meeting of the Planning Board, at which time a public hearing will be held.

Mrs. Richardson seconded the motion and it was approved, 6-0.

Eastman Meadows Subdivision - Wyley Enterprises, LLC is requesting Major Subdivision Review and a Resource Protection Permit for Eastman Meadows, a 46-unit condominium located at 68 Eastman Rd (R4-18), Sec. 16-2-4, Major Subdivision Completeness and Sec. 19-8-3, Resource Protection Permit Completeness.

Owens McCollough of Sebago Technics presented the project to the Board on behalf of Wyley Enterprises. He began by reviewing the history of this parcel, and how the project was formed. The project proposes to have over 60% open space, rather than the 40% required by the ordinance. It is a condominium development targeted for the 55 and older age group.

The roads will be designed and constructed to Town standards to offer the option of acceptance by the Town. All public utilities will be provided underground. Sewer will be extended to the existing sewer further down Eastman Road and the developer will provide the opportunity of sewer service to the homes between the project and the current end of the sewer service.

The developer is also requesting a Resource Protection Permit. The existing access road crosses a small portion of wetland, and since they wish to expand the road, a permit is needed. There are two ponds on the property. One will be re-configured, and the other, larger one will not be impacted except for a small area. It will be enlarged. Lastly, they want to construct a boardwalk across the wetlands to carry a trail over the wetland.

Ms. O'Meara made note that the force main to be constructed along Eastman Road with stubs for the houses along the way, is not a mandate for those homeowners to connect to that sewer. It is just a way to provide for the service in case any of them wish to connect now or in the future.

Mr. McCollough showed the proposed design of the exteriors of the units. The condo association will maintain the infrastructure. They are not asking the Town to do so.

In the deeds, a right of way to the Portland Water District is mentioned. That right of way is not across this parcel of land, it is across another parcel nearby, but does not affect this piece.

A community impact assessment was included in the submittal, and will be expanded to address the items suggested by Ms. O'Meara in her memo.

The Conservation Commission has made some suggestions as to location of the trails. The applicant is open to moving those trails.

Mr. McCollough addressed the idea of having a peer review of the traffic study. The developer has done a traffic study. John Adams, of Sebago Technics undertook a traffic study of the project. That study is included in the report. This type of development generates relatively low traffic because of the nature of it. The number of peak hour trips that get generated are actually very low when compared with the typical single family home development.

A Site Location of Development permit will be required by the DEP. A meeting with the DEP has already been set up for next week to start the process.

Mr. Schenkel asked where the future site for the clubhouse will be located.

Mr. McCollough showed where it would be next to the large pond. He also noted that the developer will not be building the clubhouse, but will leave it to the condo owners to build if they so choose.

A brief discussion between the Board and Ms. O'Meara ensued about whether they can rule on completeness and still ask for more information on the community impact study, and whether to have a peer review of the traffic study.

Mr. Hatem asked for Mr. Godfrey's recommendation about the peer review of the traffic study.

Mr. Godfrey strongly recommended that they get an independent review, to get any comments and suggestions.

Mrs. Schenkel wants the traffic review to be expanded to include Eastman Road and whether it can handle the traffic in its current condition. There

have already been several letters from abutters questioning the impact on Eastman Road.

The Board agreed that Ms. O'Meara shall arrange for a peer review of the traffic study.

The waiver of the scale was discussed and it was agreed that the waiver was a good idea.

Mr. Hatem made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Wyley Enterprises LLC for Major Subdivision Review and a Resource Protection Permit for Eastman Meadows, a 46 unit condominium with clubhouse and 1 single family lot, located at 68 Eastman Rd be deemed complete.

Mr. Godfrey seconded the motion and it was approved, 6-0.

A site walk was scheduled for Saturday September 29, 2007 at 8:00am.

Mr. Hatem made the following motion:

BE IT FURTHER ORDERED that the above application be tabled to the regular October 16, 2007 meeting of the Planning Board, at which time a public hearing shall be held.

Mr. Kennealy seconded the motion and it was approved, 6-0.

Mr. Hatem moved to adjourn the meeting and Mrs. Richardson seconded. The Board voted 6-0 to adjourn at 8:55 pm.

Respectfully submitted,

Hiroshi Dolliver
Board Secretary